

Section 3 - Revise Criminal Procedures**Recommendation 10****LC0375 Eliminate 5-year "lookback" in counting prior misdemeanor DUI/BAC convictions***Working draft number:*

LCIj11

Proposal sponsor:

Rep. Menahan

Summary:

This bill would provide that when determining the penalty for a misdemeanor DUI or BAC offense, all prior DUI or BAC offenses are counted, not only those committed within the last 5 years.

Background:

Section 61-8-734, MCA, currently provides that for the purposes of determining the potential jail penalty for a first, second, or third DUI or BAC offense, only those offenses that were committed within the last 5 years are counted. When a person has been convicted of a fourth or subsequent DUI or BAC offense within any amount of time, the offense is considered a felony. Thus, there is no "look back" for a felony offense.

Testimony and discussion:

Senator Laslovich brought forward this idea during a work session on February 9, 2010. Committee members also discussed extending the lookback period to 10 years, for example, rather than eliminating it entirely. During Committee discussions, it was stated that there would not be a fiscal impact on the state because the proposal does not change when an offense becomes a felony. Members speaking for the bill said it would simplify the statutes, hold offenders accountable, and motivate repeat offenders to get into treatment before they find themselves convicted of a fourth DUI or BAC offense and in prison. There was some concern about the retroactive applicability date, but no action was taken to amend the bill. Some members supported a longer lookback period and remained opposed to eliminating it entirely. During the public hearings, this proposal was supported by a citizen advocate, Mothers Against Drunk Driving, and the Yellowstone County Attorney's Office. No one testified as an opponent.

Final Committee vote: 10-2 with Sen. Juneau and Rep. Augare voting no.